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EXAMINER
REILLY, SEAN M

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/043,426	ANDERSON ET AL.
	Examiner	Art Unit	
	Sean Reilly	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>07 November 2005</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>30-51</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>30-51</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for

reconsideration filed on November 7, 2005. New claims 30-51 are presented for further

examination. All previously pending claims have been cancelled.

Specification

1.   Applicant's amendments to the specification as filed July 14, 2005 are accepted and entered

into the record.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 30-34 and 42-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Scholl

et al. (U.S. Patent Number 5,742,762; hereinafter Scholl).

3.   Regarding claim 30, Scholl discloses a method of remotely retrieving the state of at least one

enterprise device, said method comprising:

- ❑ providing a reporting and maintenance computer system (Figure 3, Network Management Gateway);

- ❑ connecting a superintendent system to the reporting and maintenance computer system (Figure 3, Web Server), said connecting producing a first communications channel (Figure 3, Request and response link);

- ❑ connecting an enterprise to the reporting and maintenance computer system, the enterprise including at least one enterprise device that can be enabled to send status messages (Figure 3, Managed Network systems 9);

- ❑ receiving enterprise device status requests from the superintendent system at the reporting and maintenance computer system (Col 6, lines 9-15);

- ❑ forming responses to enterprise device status requests at the reporting and maintenance computer system (Col 6, lines 15-21 and 32-40); and

- ❑ sending the responses from the reporting and maintenance computer system to the superintendent system (Col 6, lines 40-41);

- ❑ translating communications at the reporting and maintenance computer system between a first protocol (SNMP) and a notification channel protocol (HTTP or TCP/IP), the first protocol being used for communications between the reporting and maintenance computer system and at least one enterprise device (i.e. the managed network systems communicate using SNMP), and the second protocol being used for communications between the reporting and maintenance computer system and the superintendent system by way of a notification channel (connection between the

Network management gateway and web server, Figure 3) (see inter alia, Request Col

6, lines 6-8, 15-21 and Response Col 6, lines 32-40).

4. Regarding claim 42, Scholl discloses a method for determining the state of a remotely

located enterprise, comprising:

- ❑ accessing a reporting and maintenance system (Figure 3, Network Management

  Gateway) (Col 6, lines 6-15),

- ❑ the reporting and maintenance system being operably connected to communicate with

  enterprise devices (Managed Network Elements) in an enterprise (Managed Network)

  (Figure 3).

- ❑ sending a request to the reporting and maintenance system requesting the status of a

  particular enterprise device over a notification channel (Col 6, lines 6-15);

- ❑ receiving a response from the reporting and maintenance system including the status

  of the particular enterprise device (Col 6, lines 32-36); and

- ❑ providing a visual indication of the status of the particular enterprise device (web

  page displayed) (Col 6, lines 37-45).

The following limitations, *having at least two redundant servers, a control unit whereby*

the power of the servers may be controlled, a cabinet restricting access to the servers, an

electronic door lock remotely and locally controllable, two temperature sensors monitoring the

temperature of the air inside and outside the cabinet, an alarm, and a camera, merely restrict the

reporting and maintenance system *structure*. However, the reporting and maintenance system

structure has no bearing on the *method* for determining the state of a remotely located enterprise

and is therefore arbitrary. Thus, a prior art rejection which 1) teaches the method steps of the

claimed invention and 2) is capable of accessing a reporting maintenance system with the above

defined structure, is proper. In the instant case, the system disclosed by Scholl is capable of

accessing a reporting maintenance system with the above-defined structure or any other

computing device that has a structure capable of communication with other devices.

5.   Regarding claims 43 and 47, Scholl discloses a method for remotely accessing and viewing

information about an enterprise, comprising the steps of:

- ❑   accessing a transferential system (Figure 3, Network Management Gateway) (Col 6,
      lines 6-15);

- ❑   utilizing the transferential system to access an enterprise (Figure 3, Managed
      Networks) (Col 6, lines 15-24); and

- ❑   utilizing the transferential system to view information about the status and operation
      of the enterprise and its components (viewing the response web page) (Col 6, lines
      32-45).

The transferential system characteristics (listed below) merely restrict the transferential

system *structure*. However, the transferential system *structure* as claimed has no bearing on the

method for determining the state of a remotely located enterprise and is therefore arbitrary.

Thus, a prior art rejection which 1) teaches the *method* steps of the claimed invention and 2) is

capable of accessing a transferential system with the above defined structure, is proper. In the

instant case, the system disclosed by Scholl is capable of accessing a transferential system with

the structure listed below or any other computing device that has a structure capable of

communication with other devices.

❑ transferential system characteristics: a server group including at least two servers,

said servers providing redundancy of operation, at least one non-volatile memory

device incorporated to said server group, server network hardware connected to said

server group, said server network hardware including a gateway, said server network

hardware being configurable to provide encrypted electronic communication between

said server group and a superintendent system through said gateway, said server

network hardware being further configurable to provide electronic communication

between said server group and at least one enterprise device in communicative

proximity, first computer readable instructions installed to said memory devices, said

first instructions providing the function of receiving first messages from enterprise

devices in at least one enterprise management protocol including version 1 of SNMP,

second computer readable instructions installed to said memory devices, said second

instructions providing the function of forwarding the information contained in the

first messages to a superintendent system by a notification channel in preferential

order by an assigned priority, third computer readable instructions installed to said

memory devices, said third instructions providing the function of filtering the first

messages, the filtering preventing the forwarding of some of the first messages, said

filtering prescribed by policy, fourth computer readable instructions installed to said

memory devices, said fourth instructions providing the function of assigning priority

to the information in said first messages, fifth computer readable instructions installed

to said memory devices, said instructions providing the function of translating the

first received messages to a second protocol, a cabinet housing said server group, a

first network enabled temperature sensor, said first temperature sensor positioned to

monitor the temperature of the air at the interior of said cabinet, a second network

enabled temperature sensor, said second temperature sensor positioned to monitor the

temperature of the air outside said cabinet, at least one door included in said cabinet

whereby access to said server group is restricted when said doors are in closed

position, locks included in said doors whereby said doors may be secured in a closed

position, said locks enabled to unlock through an electronic command message from

a superintendent system, a data entry device connected to said locks, said data entry

device being mounted to said cabinet, said data entry device providing a human

interface external to the cabinet enclosure; said locks enabled to be unlocked through

said data entry device, a network enabled camera whereby a space in proximity to

said server group may be monitored, an alarm in proximity to said server group, a

network enabled power controller connected to and being configurable to control the

power of at least one server of said server group, said power controller being

configurable to accept network commands from a superintendent system, sixth

computer readable instructions installed to said memory devices, said instructions

providing the function of receiving second messages from a superintendent system

through a notification channel, said second messages referencing at least one

enterprise device, seventh computer readable instructions installed to said memory

devices, said instructions providing the function of translating the second received

messages to an enterprise management protocol utilized by the referenced enterprise

devices, eighth computer readable instructions installed to said memory devices, said

instructions providing the function of forwarding the information in the second

messages to the referenced enterprise devices in at least one enterprise management

protocol including version 1 of the simple network management protocol, enterprise

devices in electronic communication with said server group through said server

network hardware, a superintendent system in electronic communication with said

server group through said server network hardware, ninth computer readable

instructions installed to said memory devices, said ninth instructions providing the

function of accepting network parameters that define the boundaries of an enterprise,

said ninth instructions also providing the function of discovering enterprise devices

through said server network hardware using the network parameters, and tenth

computer readable instructions installed to said memory devices, said tenth

instructions providing the function of receiving a software upgrade from a

superintendent system, said tenth instructions also providing the function of

delivering the software upgrade to enterprise devices;

6.   Regarding claim 31, Scholl discloses prior to said forming, querying an enterprise device for

status; said forming produces a response using the result of said querying (Col 6, lines 15-21 and

32-40).

7.   Regarding claim 32, Scholl discloses maintaining a database reflecting the state of enterprise

devices (Figure 4, Component 14; Col 7, lines 2-4); said forming produces a response using the

database (Col 6, lines 60-65).

8.   Regarding claim 33, Scholl discloses periodically polling enterprise devices for status and
entering the polled status into the database (Col 7, lines 59-67).

9.   Regarding claim 34, Scholl discloses wherein the first protocol is the SNMP (Col 6, lines
25-26).

10.   Regarding claims 44-46 and 48-50, Scholl discloses using information gained about the
enterprise to generate policy or to initiate a physical action. Scholl also discloses using the
transferential system to make a modification to the enterprise. (configuration, fault, or
performance management) (Col 9, lines 1-13).

11.   Claims 37-40 and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Barker et
al. (U.S. Patent Number 6,363,421; hereinafter Barker).

12.   Regarding claims 37 and 51, Barker discloses a method of monitoring the state of at least
one enterprise device, said method comprising:

- ❑   providing a reporting and maintenance computer system being connectable to said
  enterprise devices (Figure 2, Element Management System Server);

- ❑   connecting a superintendent system to the reporting and maintenance computer
  system (Figure 2, Element Management System Client), said connecting producing a
  first communications channel (Figure 2);

- ❑   connecting an enterprise to the reporting and maintenance computer system, the
  enterprise including at least one enterprise device (Figure 2, Network Element) that
  can be enabled to send status messages (Traps, Col 11, lines 43-47);

- ❑ receiving first enterprise device status messages at the reporting and maintenance computer system from the enterprise devices within the enterprise, said first messages conforming to a first protocol (SNMP) (Col 11, lines 21-26);

- ❑ filtering the enterprise device status messages using a filter criteria (Col 17, lines 5-17); and

- ❑ sending second filtered enterprise device status messages from the reporting and maintenance system to the superintendent system over the first communications channel over a notification channel (Col 17, lines 5-17);

- ❑ translating first enterprise device status message from a first protocol to a notification channel protocol (HTTP or TCP/IP) used by the notification channel (see Figure 3 and connection between the Element management system server and element management system client) .

13. Regarding claim 38, Barker discloses the first communications channel is an encrypted channel (Col 8, lines 45-49).

14. Regarding claim 39, Barker discloses periodically polling enterprise devices for status (Col 4, lines 45-46).

15. Regarding claim 40, Barker discloses the first protocol is the SNMP protocol (Figure 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl et al. (U.S. Patent Number 5,742,762).

17. Regarding claim 8, Scholl fails to disclose using the HTTP protocol for communication between the reporting and maintenance computer system and at least one enterprise device. However Scholl does disclose that communication between the reporting and maintenance computer system and at least one enterprise device occurs using an appropriate protocol for communication (Col 6, lines 17-20). By using HTTP for communication between the reporting and maintenance computer system and the superintendent system Scholl discloses HTTP is an appropriate communication protocol and therefore also appropriate for communication between the reporting and maintenance computer system and at least one enterprise device. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to use the HTTP protocol from communication between the reporting and maintenance computer system and at least one enterprise device since Scholl discloses HTTP is an appropriate protocol (Col 6, lines 6-15).

18. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl et al. (U.S. Patent Number 5,742,762) and Examiner's official notice.

19. Regarding claim 10, Scholl fails to disclose the first communications channel is an encrypted channel however, the Examiner takes official notice that was well known in the art at the time of invention to encrypt communications over a network channel. It would have been

obvious to one of ordinary skill in the art at the time of the invention to encrypt communications

between the network management gateway and network management systems of Scholl, so

communication between the devices is secure.

20. Claim 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker et al. (U.S.

Patent Number 6,363,421).

21. Regarding claim 41, Scholl fails to disclose using the HTTP protocol for communication

between the reporting and maintenance computer system and at least one enterprise device.

However it was well known in the art at the time of the invention to use the HTTP protocol for

communication between two devices, as evidenced by Barker using HTTP for communication

between the Element Management System Client and the Element Management Server (Figure

3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of

invention to use the HTTP protocol for communication between the reporting and maintenance

computer system and an enterprise device within the Barker system since the HTTP provides an

efficient means of communication.

Response to Arguments

22. In response to Applicant's request for reconsideration filed on November 7, 2005, the

following factual arguments are noted:

    a. Neither School nor Baker disclosed the use of a notification protocol.

In considering (a), Examiner respectfully disagrees with Applicant's argument.
Applicant contends that since HTTP is a point to point protocol it cannot operate on a
notification channel. Examiner disagrees with this rationale. First Applicant defines that a
notification protocol "must contain at least two information fields," "one required filed is an
identifier for the sender" and "the other required field is a substantive message that is meaning to
the destination" (see Applicant specification ¶ 29). Certainly the HTTP protocol meets these
broad requirements. Further the HTTP communication in the systems of Scholl and Baker occur
over a TCP/IP connection which is considered a notification channel insomuch that notifications
are transmitted across the TCP/IP connection or channel.

Conclusion

23. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent
to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time
policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE
MONTHS from the mailing date of this action. In the event a first reply is filed within TWO
MONTHS of the mailing date of this final action and the advisory action is not mailed until after
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The

examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 3, 2006

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